the same quality of cotton is available indigenously at a cheaper rate and how does it help the handloom sector by importing cotton at the cost of the grower?

श्री अशोक गहलोत : चेयरमैन साहब, दो लाख बेल इम्पोर्ट जो रही है वह ड्यूटी फ्री करने की सरकार की योजना है। जहां तक माननीय सदस्य ने कहा है कि प्राइसेज में डिफरेंस है उसके लिए मैं यह कहना चाहूंगा कि यह हमने आफर दिया है कि देश की सारी मिलों को पूरी स्कीम बनाकर दी है कि जो हैंक्यार्न सप्लाई करेगा वही इस काटन को इम्पोर्ट कर सकेगा। अगर प्राइवेट मिल वालों को यह बात लगेगी कि उसको प्रोफिट हो रहा है इम्पोर्ट करने में हायर रेट पर तो वह करेगा अदरवाइज नहीं करेगा। स्कीम इस प्रकार की बनाई गई है कि अगर वह सोचेगा कि हमारे देश के अंदर काटन मिल रहा है उसको तो वह खुद इस स्कीम में पार्टीसिपेट नहीं करेगा। अभी इस बारे में और कुछ कहना जल्दबाजी होगी। इस स्कीम को हमने फलोट किया है।

MR. CHAIRMAN: Question No. 184.

SHRIMATI RENUKA CHOWDHURY: Sir, he has not answered the main question. There is cotton lying with the farmers .... (*Interruptions*) ...

DR. YELAMANCHILI SIVAJI: Sir, he has not answered my question. .... (*Interruptions*) ...

MR. CHAIRMAN: Question No. 184.

SHRIMATI RENUKA CHOWDHURY: Sir, cotton is lying with the farmers and it has not been lifted ... (*Interruptions*) ....

MR. CHAIRMAN: Question No. 184. Mr. Malaviya.

विधायिका और न्यायपालिका के बीच टकराव को समाप्त करने के उपाय

*184. **श्री सत्य प्रकाश मालवीय** †:
श्री महेन्द्र सिंह लाठर :

क्या विधि, न्याय और कम्पनी कार्य मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या सरकार विधायिका और न्याय पालिका के बीच के टकराव को समाप्त करने के लिए कोई कानून पर विचार कर रही है ;

(ख) यदि हां, तो इसका ब्यौरा क्या है ; और

(ग) यदि नहीं, तो इसके क्या कारण हैं ?

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI RANGARAJAN KUMARMANGALAM): (a) and (b) the Government is examining the question of making suitable amendments to the anti-defection law as contained in the Tenth Schedule to the Constitution in order to avoid the possibility of confrontation between the Legislature and the Judiciary. In this connection, a proposal to provide for an appellate authority is also under consideration. The details are being worked out.

(c) Does not arise.

SHRI P. UPENDRA: What is that authority?

SHRI SATYA PRAKASH MALAVIYA: Sir, the Minister has not replied to my question at all. He has tried to confine himself to the anti-defection law ... (*Interruptions*) ... He has only tried to confine himself to the anti-defection law. Sir, even before the enactment of the anti-defection law, there has been confrontation between the Legislature and the Judiciary. You may remember, Sir, that there was

†सभा में यह प्रश्न श्री सत्य प्रकाश मालवीय द्वारा पूछा गया।

the Keshav Singh case in 1964 in which a warant of arrest was issued by the U.P. Assembly against two High Court Judges and the matter went up to the Supreme Court and then it was settled. Now, my question is whether the Government is contemplating to enact any law which would put an end to the confrontation between the Legislature and the Judiciary and the reply is confined to the anti-defection law only. This is my objection, Sir.

SHRI P. UPENDRA: This has been there even before the anti-defection law.

MR. CHAIRMAN: The question is clear. His question is not restricted to the anti-defection law. There are other confrontations also going on. Kindly state whether the Government is considering enacting any law.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI K. VIJAYA BHASKARA REDDY): Sir, the confrontation has arisen only now ... (*Interruptions*) ...

SHRI SATYA PRAKASH MALAVIYA: No, no .... (*Interruptions*) .... The confrontation has been there earlier also ... (*Interruptions*) ....

SHRI DIPEN GHOSH: Sir, the Minister cannot have the liberty to reply according to his own convenience .... (*Interruptions*) ...

SHRI K. VIJAYA BHASKARA REDDY: Sir, recently, there was a confrontation and we thought that it was because of the anti-defection law which has been enacted. But as far as the present confrontation between the legislature and the judiciary in Madras is concerned, it is *sub judice* and we should not discuss it at this stage .... (*Interruptions*) ....

DR. BAPU KALDATE: Sir, he says that we cannot discuss it .... (*Interruptions*) ... How can he say that? ... (*Interruptions*) ...

SHRIMATI RENUKA CHOWDHURY: How can he say that we connot discuss it? ... (*Interruptions*) .... The entire Press is affected .... (*Interruptions*) ....

SHRI P. UPENDRA: How can he say that Parliament cannot discuss that problem? ... (*Interruptions*) ...

SHRI K. VIJAYA BHASKARA REDDY: Let the honourable Member ask specifically what he wants to ask .... (*Interruptions*) ...

SHRI N. E. BALARAM: Sir, the question is not about the recent developments. It is a general question. So, he should answer that general question. What steps are they going to take to put an end to this confrontation? ... (*Interruptions*) ...

SHRI K. VIJAYA BHASKARA REDDY: Sir, as far as the general question is concerned, we have answered. There has been the application of the anti-defection law in Manipur and the Supreme Court judgment has been there. So, we have answered that question .... (*Interruptions*) .... After U.P., the confrontation arose only recently because of the Manipur judgement ...

SOME HON. MEMBERS: No, no .... (*Interruptions*) ...

SHRI RANGARAJAN KUMARAMANGALAM: Mr. Chairman, as pointed out, there are two aspcets. One is dealing with the question of power of disqualification of Members under the Anti-Defection law. The other is the long-standing issue, the issue of privileges of Members of the House, and the question is how far they could go. I think it is necessary for me to bring to the notice of the hon. Members the developments. As rightly pointed out by Malaviyaji, there was a confrontation which took place between the High Court of U.P., Allahabad, and the Legislature in U.P. way back in 1964. That could be settled very easily because there was a reference under article 143 to the Supreme Court. Then the advisory opinion given by the Supreme Court at that time, which is now known, was something on which the Legislatures and Speakers all had views to voice. There is also the question whether a codification of the privileges is required. There were varying views. So, Sir, this

is not a question on which merely a law would answer the problem. That needs much more, if I may submit. Under our Constitution, the Legislature has a role to play, the Judiciary has a role to play and the Executive has a role to play. Ultimately, all the three institutions, or the pillars of the Constitution as they are called, can work only if there is a restraint all around. I understand the hon. Minister of Law and Justice would be taking it up with the Speaker because now that issue has arisen afresh, once again, due to the issue of the privileges which took place in the Tamil Nadu Assembly. We would be taking it up. It is not something which one can answer on the floor of the House straightway: this is a solution and that is not a solution. I think that an all-party effort is required, whereby all should apply our minds and find a solution so that this confrontation does not come in because there is the fundamental issue of the rights of the Legislature and also the role of the Judiciary.

SHRI SATYA PRAKASH MALAVIYA: Now this is my first supplementary. Article 105(3) of the Constitution lays down:

> "(3) In other respects, the powers, privileges and immunities of each House of Parliament and of the Members and Committees of each House, shall be such as may from time to time be defined by Parliament by law .."

So far as my knowledge goes, it has not been defined by Parliament by law so far. My question is whether the Government has any intention of codifying the privileges of Members of Parliament.

SHRI RANGARAJAN KUMARAMAGALAM: I have already said that the question is very delicate. As I have already said, the question of codification has been raised by some people and it is not something on which the Government on its own can come forward and say: this is our stand. This is a question which all have to collectively look into because if you codify the privileges the question arises whether the codified privileges will be subject to the fundamental rights, etc. I don't think it is right to say 'yes' or 'no' to this. I think all of us should jointly apply our minds to come to a solution.

SHRI SATYA PRAKASH MALAVIYA: In the operative part it is stated:

> "... a proposal to provide for an appellate authority is also under consideration"

My question is, what are the proposals? Against whose orders are you going to the appellate authority? what are the details of the proposal?

SHRI RANGARAJAN KUMARAMANGALAM: Sir, I may submit that on the 12th November 1991 the Supreme Court delivered a judgment on the question of anti-defiction law.

Far-reaching implications are there. By a majority of 3 to 2 they upheld the validity of the Tenth Schedule except part 7 threof which bars the jurisdiction of the courts in matters connected with disqualification. This mater has been taken up in a meeting of the Standing Committee of the All India Presiding Officers Conference on 20th January 1992. It has also been taken up at the meeting of the Speaker Lok Sabha with Leaders of Parliamentary parties and groups in the Lok Sabha on 5th February 1992. Then there has been a meeting of the All India Presiding Officers Conference again held on 11th February 1992 under the Chairmanship of the Lok Sabha Speaker. The Speaker of the Lok Sabha has informed the hon. Minister for Law that there was near unanimity among the members who participated at these meetings on the issues that arose. He made the following general observations: Firstly that the dignity and the prestige of the legislature and the judiciary should be maintained and protected; secondly, that there should be no conflict between the Legislature and the Judiciary; and thirdly ... (*Interruptions*) These are delicate issues.

MR. CHAIRMAN: This is the indication of the hon. Speaker.

SHRI RANGARAJAN KUMARAMANGALAM : I am talking about the hon. Speaker, what he informed us. So, I do believe that the verdict given by the Supreme Court in the matter relating to anti-defection law should be respected. This is what the Presiding Officers decided, and also that due process of law and correct procedures should be followed while giving a decision under the anti-defection law. There was a general feeling that an appeal, or a forum for appeal, should be there. Various differing views on what the forum should consist of, had come up in those meetings. They are being discussed and as soon as they are finalised, we will come up with a law.

SHRI MOHINDER SINGH LATHER : Sir, I will join with my colleague, Shri Malaviya, to protest against the clever way ....

श्री सभापति : आप प्रश्न कर लीजिये ।

SHRI MOHINDER SINGH LATHER : .... in which he tried to limit the scope of our question. Then our Constitution, although it is the longest written Constitution in the world ....

SHRI MURLIDHAR CHANDRAKANT BHANDARE : No, it is the second largest; Yugoslavia has overtaken up.

SHRI MOHINDER SINGH LATHER : .... but much has been left unsaid in the Constitution ....

श्री सभापति : सवाल करें । कितना बड़ा कांस्टिट्यूशन है, यह सब पढ़े हुए हैं । सब जानता है कांस्टिट्यूशन के ।

SHRI MOHINDER SINGH LATHER : Let me make my submission. Much has been left unsaid in the Constitution and much has been left to the conventions which are prevalent in both Houses of England, resulting in so much of confusion and Constitutional crisis in our country. My question has got two parts, part (a) and part (b). part (a) is whether the Government will consider having a second look at the Constitution considering these defects, and (b) whether the Government will consider constituting a tribunal consisting of the Chief Justice of the Supreme Court, the Speaker and the Chairman of the two Houses of Parliament, and a few eminent jurists so that these irritants can be removed and to sort out this problem.

SHRI RANGARAJAN KUMARAMANGLAM : On this question actually as I said earlier, it would not be fair for the Government to say we are considering or not considering either because this is a matter on which all parties must come to a unanimous understanding on the issues. It is a matter of the working of the Constitution. To be very accurate, we are not strictly neutral either. But it is not something which I would like to answer on the floor of the House. It is something on which we should discuss among ourselves.

SHRI MOHINDER SINGH LATHER : These are very vital questions and you will have to answer the House.

MR. CHAIRMAN : Changes in the Constitution etc. are very important issues and no Minister can tell you yes or no.

SHRI MOHINDER SINGH LATHER : This House is also very important.

MR. CHAIRMAN : The House works under the Constitution.

SHRI MOHINDER SINGH LATHER : That is why the Constitution has been amended so many times.

SHRI N. K. P. SALVE : Sir, I want to protest first. Everytime, you effectively summarise the question. In this case also, you could have summarised the question very effectively. This was not done. This is my protest against the Chair. I have not made you a party.

Sir, this is a delicate issue. This is an important issue. I charge. The successive Governments are responsible, not for a neutral, but a negative attitude. The question is, how do you think all the political parties are going to come together and come out with a solution ? What is the Government doing to ensure that all the parties come to a consensus ?

MR. CHAIRMAN : What are you doing so that all the parties come together and remain as one party in the House ?

SHRI N. K. P. SALVE : Sir, now, you have summarised.

SHRI RANGARAJAN KUMARAMANGALAM: Sir, first of all, I would like to protest. I did not get a chance to join issue with the hon. Member, Mr. Salve. We also need protection from the Chair.

If I may submit, we have, as in the case of the problem with regard to the anti-defection law, taken steps, as I have pointed out. Meetings of the Presiding Officers have taken place. Meetings of the leaders of parties and groups in Parliament have taken place. Some ideas have come forth. We are coming forward with regard to the anti-defection issue. Similar steps will have to be taken on the issue of privileges and rights of Members of Legislature;— whether it is Assemblies or Parliament— how much of judicial review, to what extent, etc. We will have to do it very quickly, I am sure. But I will not be able to give any dates. Issues are coming to a head, a little bit.

SHRI S. JAIPAL REDDY : Sir, the confrontation between the judiciary and the legislature has been on intermittently since 1964. It has taken place in Andhra Pradesh a few years back. The courts have been taking the view that they can review the decisions taken by Legislatures, the decisions taken against the citizens. Apart from the Legislature and the Judiciary, you have a third entity which, I think, superior to both of us. It is the citizen. This area has been allowed to remain a grey area. We have been referring to the privileges of the House. The Minister did say that they would take some initiative. Will he be able to indicate a time-frame within which he would initiate the process so that all the parties can reach a consensus ?

SHRI RANGARAJAN KUMARAMANGALAM : The hon. Member the Leader of the Opposition, has very rightly mentioned that the courts have taken the stand that when the laws passed by us are subject to the Fundamental Rights of the citizens of the nation, why should not the resolutions on matters of privilege also be subject to the same restriction of Fundamental Rights ? This is how the courts have been looking at it. There has been the question of a lot of grey area in regard to the rights and privileges, how paramount are they, how are they not. They have also even compared the House of Commons and our Parliament and have said that the House of Commons is a House of Records, a superior House of Records, which we are not supposed to be, etc.

Sir, what I want to submit here is, it would not be fair to give any time-frame. But as I said earlier, when I was replying to the question of Mr. Salve, the issue is very imminent now. It has to be much faster than merely the question of a time-frame. I think all of us must get together. The hon. Minister of Justice would be talking to the hon. Speaker in this regard very soon. We will be taking steps on a very emergency basis in this matter.

SHRI MURLIDHAR CHANDRAKANT BHANDARE : The hon. Minister is quite right that we have a very fine balance in the Constitution, and the instances where there has been confrontation have been really very few, rare. A very happy solution has been found. In this case also, in the case of this present confrontation also, I think, we will have a very happy solution, to the satisfaction of all the parties. The point I want to make here is, we may not provide for an appellate forum in regard to the Speaker's order. The first amendment or anti-defection, the 32nd Constitution Amendment Bill, and the second amendment, the 38th Constitution Amendment Bill, continued with the scheme of the Constitution under articles 103 and 192 to resolve the question of disqualification on the ground of defection by the Governor or the President on the advice of the Election Commission. I do not know why we cannot go back to that scheme which was thought of by the original framers of the anti-defection law to the appropriate to meet this situation.

SHRI RANGARAJAN KUMARAMANGALAM : That is also one of the suggestions under consideration.

SHRI DIPEN GHOSH : Mr. Chairman, Sir, I agree with the Minister that restraint has to be maintained to ensure the privileges and rights of the three independent pillars of the Constitution and surely a consensus has to be arrived at through an all-party meeting. But, Sir, apart from the areas covered by the anti-defection law, confrontation is also arising between two of these pillars, the judiciary and the legislature, on the privileges of not only citizens but also certain other States. We have been that there is the fourth estate and now the greatest confrontation has come between the judiciary and the legislature over the rights and privileges of the fourth estate, that is in connection with Tamil Nadu. Now the situation has assumed alarming proportions. Even though the Minister is not inclined to tell about the timeframe urgency is necessary because the parties which are involved in it are friendly to each other, particularly that party is a friendly party of the ruling party.

MR. CHAIRMAN : Put your question. Everybody is friendly here, anyway.

SHRI DIPEN GHOSH : So, before the confrontation assumes greater proportions, may I know what steps the Government is going to take to defuse the situation ?

SHRI RANGARAJAN KUMARAMANGALAM : Sir, the hon. Member has rightly put it that the issue that is arising now deals with the fourth estate claiming the freedom of speech, the right to print, vis-a-vis, the right of the House to say that what is expunged should not be printed. It is really one of the major issues which is on. The confrontation, of course, has nothing to do whether 'A' party is friendly or not. Mr. Dipen Ghosh's party is also very friendly to us. I do not say that they are animus to us (*Interruptions*). How can I say that my uncle's party is animus to us, that is a bit too much to say like that.

It is a very serious matter, it deals with the State Assembly and it is all important. We are definitely taking steps. I do not want to say what steps we are trying to take. The Minister of law would be talking to the Speaker about it to find out what steps the Government should take to bring about a consensus.

MR. CHAIRMAN : Next Question.

People's Participation in Planning and Development During Eighth Five Year Plan Period

185. SHRI BHUVNESH CHATURVEDI : Will the Minister of PLANNING AND PROGRAMME IMPLEMENTATION be pleased to state :

(a) what are the objectives laid down in the Eighth Five Year Plan to make the people's participation in planning and development a reality; and

(b) what are the schemes for creating voluntary agencies and to enthuse the common man towards planning; whether Government have prepared a blue print in this regard ?

THE MINISTER OF STATE OF THE MINISTRY OF PLANNING AND PROGRAMME IMPLEMENTATION (SHRI H. R. BHARDWAJ) : (a) and (b) A Statement is laid on the Table of the House.

(a) In the Eighth Plan people's initiative and participation will be a key element in the process of development. The role of Government will be reoriented so as to bring about greater involvement of the people in the planning and implementation of various programmes and scheme. The existing institutions like cooperatives, Panchayati Raj Institutions and Voluntary Organisations some of which have become relatively weak would be revitalised and given greater support for undertaking developmental work particularly in the rural areas. In other words the genuine push towards decentralisation with active participation of people will be ensured.

(b) In the Eighth Plan a greater emphasis will be placed on voluntary organisations in developmental activities. The details will be incorporated in the Eighth Plan which is being finalised.